IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Ignacio Sanz-Pastor *et al.*

APPLICATION NO.:   10/007,966

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TITLE: INTERACTIVE ADVERTISING WITH AN AUTOMATED VIEWING REWARD SYSTEM

EXAMINER: DANIEL LASTRA

GROUP ART UNIT: 3688

ATTY. DKT. NO.:   22503-05565

REMARKS IN SUPPORT OF REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Claims 65-80 and 82-87 are pending in this application an now on appeal. The examiner rejected claims 65-67, 73-74, 78-80, 82 and 85-87 under 35 U.S.C. § 102(b) as anticipated by Blahut. The examiner also rejected claims 68-72, 75-77, and 83-84 as obvious under 35 U.S.C. § 103(a) in view of Blahut.

Claim 65 recites a method for providing interactive advertising to an access device. According to the claimed method, video programming content and advertisements are received, and at least a portion of the programming content is displayed to a viewer's access device. In addition, at least one advertisement is displayed to the viewer's device. After some amount of time, the viewer then stops the displaying of the advertisement, and is awarded value

that is prorated according to the amount of the advertisement displayed. This enables a viewer faced with an advertisement to decide in the moment whether to allow an advertisement that is being displayed to continue to be displayed, or whether instead it should be stopped.

Blahut does not disclose the claimed invention. Blahut describes allowing a user to choose a level of advertising to receive along with a set of television shows or a video on demand (and adjusts a subscriber's bill according to the level of advertising the viewer has chosen (see, e.g., Blahut col. 5, lines 35-47; Fig. 5). Blahut describes a feature that notifies a viewer that a set of commercials of a certain length is coming up shortly, e.g., that five minutes of commercials will begin in two minutes. The viewer can then elect to "cancel" the set of commercials, and they will then not be shown (see col. 5, lines 25-35).

Thus, in Blahut, a viewer chooses a level of advertisements, and a particular set of advertisements can be "canceled" by the user before they are shown. Blahut does not "receive[e] after a first amount of time a request from the viewer to stop displaying the displayed advertisement," as claimed, because advertising sets in Blahut are either not present (e.g., if the viewer has elected an ad-free level of advertising), present and displayed to the viewer as a set, or present but "canceled" before they are viewed. Thus, there is no request from the viewer to stop displaying an advertisement that is being displayed. It follows then that Blahut cannot teach "responsive to the received request, stopping the display of the advertisement," or prorating value awarded to the user according to the amount of the advertisement displayed during the first amount of time. The prorating discussed by Blahut at col. 5, lines 50-67 and cited by the examiner is done in response to a viewer changing to a different level of advertising for "a particular show or time frame," and not according to an amount of a particular

advertisement watched prior to the viewer requesting that that advertisement no longer be displayed.

Addressing these arguments in the June 2, 2010 office action, the examiner argues that in Blahut, "the billing of each user is adjusted on a pro-rata basis based upon the amount of time of viewed advertisement, where said amount of time of viewing takes into consideration if a user changes channels or simply turn off the TV (i.e. 'stop viewing the advertisement'; see col. 6, lines 35-45)" (June 2, 2010 Office Action, p. 9). Blahut, however, discloses nothing of the sort. The cited portion in col. 6 forms part of Blahut's description of Fig. 5, which is a flow chart illustrating how an amount of advertisements is determined (see col. 6, lines 4-44). The viewer can, prior to receiving advertisements, indicate a desired level of advertising (see steps 232, 236, 250, 252, 256). If the viewer changes the channel, step 226 is repeated. If the viewer turns off the TV, processing stops at step 260. There is no viewer request taught by Blahut to stop displaying an advertisement that is being displayed, nor does Blahut disclose "responsive to the received request, stopping the display of the advertisement," or prorating value awarded to the user according to the amount of the advertisement displayed during the first amount of time.

Accordingly, claim 65 is patentable over Blahut. Dependent claims 66-77 and 82-84 are also patentable over Blahut, as each depends from patentable claim 65 in addition to reciting its own patentable features. Independent claim 85 is also patentable over Blahut for reasons analogous to claim 65.

Independent claim 78 as amended recites the steps of "receiving a skip request from the access device of the viewer" and "responsive to the skip request, stopping the display of the advertisement being displayed to the access device." Another advertisement is then played to the viewer, and the award to

the viewer is prorated according to an amount of time the skipped advertisement was displayed. As is evident from the discussion above, Blahut does not disclose allowing a viewer to skip from one advertisement to the next, and then to receive prorated credit for the skipped advertisement. Claim 86 as amended is also patentable over Blahut for reasons analogous to claim 78. Dependent claim 87 recites its own patentable features as well as depending from patentable claim 86.

Respectfully submitted,

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